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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/783,064

02/20/2004

Steven E. Brown

5720

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05/02/2008

Legal Department (M-495)

P.O. Box 1926

Spartanburg, SC 29304

EXAMINER

KHAN, AMINA S

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/783,064	<b>Applicant(s)</b> BROWN ET AL.	
	<b>Examiner</b> AMINA KHAN	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10, 41-46, 49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 41-46, 49 and 50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is in response to applicant's amendments filed on April 8, 2008.
2. Claims 1-10,41-46,49 and 50 are pending. Claims 11-40,47 and 48 have been cancelled. Claims 1,41,49 and 50 have been amended.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-10,41-46, 49 and 50 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claim language in claims 1, 41,49 and 50 reciting "from 2.0 to 25" and the 0.1 to about 50 parts by weight of pH adjusters, biocides, aerosol propellants, static reducing additives, dust suppressing additives, metal ion chelators and fragrances are considered new matter. The added limitation in the claim lacks literal basis in the specification as originally filed, see *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983) *aff'd mem.* 738 F.2d 453 (Fed. Cir. 1984).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich et al. (US 4,013,594) in view of Chapman et al. (US 4,493,781) and Scialla et al. (US 5,928,384).

Froehlich et al. teach methods of cleaning carpets where compositions comprising about 30-90% particulate polymeric urea-formaldehyde having a particle size of 10-105 microns and a oil absorption value of no less than 90, 2-10% cationic antistatic agent and about 10-70% fluid, wherein the fluid is up to 100% water and the water contains sufficient surfactant to give a surface tension of less than 40 dynes per centimeter (column 1, lines 40-52; column 2, lines 40-50; column 3, lines 45-50; column 4, lines 1-4), and optionally dust suppressants (column 3, lines 45-58) and up to about 1% of optical brightening agents and mildewcides (column 7, lines 5-10) are applied to carpets. Froehlich et al. further teach methods of agitated into the carpet, dried and removed by vacuum cleaner (column 5, lines 45-55).

Froehlich et al. does not teach clays as a component of the compositions or liquid formulations.

Chapman et al., in the analogous art of carpet cleaning, teach that it is conventional in powdered carpet cleaning compositions to add clays such as bentonite, kaolin and the like as brightening agents (column 5, lines 1-15).

Scialla et al. teach the functional equivalence of powdered and liquid carpet cleaning compositions (column 8, lines 20-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the compositions and methods of Froehlich et al. by incorporating the brighteneing clays taught by Chapman et al. because Chapman et al. teach these compounds as effective in brighteneing carpets in powdered carpet cleaning formulations. Furthermore, Froehlich et al. invite the inclusion of additives including brightening agents. It would have been further obvious to modify the methods of Froehlich by using liquid formulations instead of powdered because Scialla et al. teach the functional equivalence of powders and liquids in cleaning carpets and the substitution of art recognized equivalents only requires routine skill in the art. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

As the word "about" permits some tolerance, see *In re Ayers*, 69 USPQ 109, and *In re Erickson*, 145 USPQ 207), the " 25 parts by weight of at least one absorbent particulate" of the instant claims is considered to read on about 30% particulate polymeric urea-formaldehyde of the prior art.

Regarding the 75 parts water, the 70% water taught by Froehlich is expected to provide similar properties. A *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties, see *Titanium MetalsCorp. of America v. Banner*, 778F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). See MPEP 2144.05I.

A *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties, see *Titanium MetalsCorp. of America v. Banner*, 778F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). See MPEP 2144.05I.

7. Claims 2,8,9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich et al. (US 4,013,594) in view of Chapman et al. (US 4,493,781) and Scialla et al. (US 5,928,384), as applied to the claims above, and further in view of Roberts et al. (US 6,125,498).

Froehlich et al., Chapman et al. and Scialla et al. are relied upon as set forth above.

Froehlich et al., Chapman et al. and Scialla et al do not teach carpet cleaning machines that are battery operated.

Roberts et al., in the analogous art of carpet and upholstery cleaning (column 4, lines 33-35 and column 9, lines 63-67), teach handheld carpet and upholstery cleaning machines which are battery operated (column 3, lines 29-33), wherein the liquid cleaner

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is dispensed from a spray nozzle and applied by a squeegee or brush (column 2, lines 1-6 and 33-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Froehlich et al., Chapman et al. and Scialla et al by adding the carpet/upholstery cleaning machine taught by Roberts because Roberts teaches the improved carpet cleaning benefits provided by hand held cleaning machines. One of ordinary skill in the art would have been motivated to combine the teaching of the references absent unexpected results.

8. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich et al. (US 4,013,594) in view of Chapman et al. (US 4,493,781) and Scialla et al. (US 5,928,384), as applied to the claims above, and further in view of shoplet.com (<http://www.biochem.ucl.ac.uk/bsm/enzymes/ec3/ec01/ec01/ec0074/index.html>).

Froehlich et al., Chapman et al. and Scialla et al are relied upon as set forth above.

Froehlich et al., Chapman et al. and Scialla et al do not teach one-gallon containers with removable caps and synthetic applicators with tips for dispensing the compositions.

The website shoplet.com teaches that carpet cleaners currently on the market, such as Resolve® Spot Magic®, are conventionally sold in aerosol cans with detachable caps, nozzles with openings, and canisters with a volume of less than 1 gallon (in this case 14 oz).

It would have been obvious to one of ordinary skill in the art to incorporate the cleaning solutions taught by Froehlich et al., Chapman et al. and Scialla et al into the canisters demonstrated by shoplet.com for dispensing since this is conventionally known in the art to be an effective method for packaging and dispensing of the composition onto carpets. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

9. Claims 7,41-46 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froehlich et al. (US 4,013,594) in view of Chapman et al. (US 4,493,781), Scialla et al. (US 5,928,384) and shoplet.com (<http://www.biochem.ucl.ac.uk/bsm/enzymes/ec3/ec01/ec01/ec0074/index.html>), as applied to the claims above, and further in view of Hoxie (US Patent 3,184,781).

Froehlich et al., Chapman et al., Scialla et al and shoplet.com are relied upon as set forth above.

Froehlich et al., Chapman et al., Scialla et al and shoplet.com do not teach foam or bristle scrubbing mechanisms.

Hoxie, in the analogous art of upholstery shampooers (column 2, lines 7-9), teaches attachable heads for aerosol cans (column 1, lines 23-25), which have bristles and sponge foams (column 3, lines 6-73).

It would have been obvious to one of ordinary skill in the art to incorporate the cleaning solutions taught by Froehlich et al., Chapman et al. and Scialla et al into the canisters demonstrated by shoplet.com for dispensing with the caps taught by Hoxie et



al. for scrubbing since this is conventionally known in the art to be an effective method for packaging, dispensing and utilizing the composition to provide maximal cleaning benefits to carpets and upholstery. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

### ***Response to Arguments***

10. Applicant's arguments filed regarding the 35 USC 112 rejection of claims 1-10,41-46,49 and 50 have been fully considered but they are not persuasive. The applicant argues that the Examples provide basis for the limitation of 2.0 to 25 parts". The examiner respectfully disagrees. None of the examples cite 25 parts and the disclosure of 2.00 parts in example 5A is only taught for urea formaldehyde polymer and not the other instantly claimed absorbent particulates. Regarding applicants arguments that the 0.01 to about 50 parts by weight pH adjusters, biocides, aerosol propellants, static reducing additives, dust suppressing additives, metal ion chelators and fragrances are not taught in the specification page 11, line 24 to page 12, line 2. The disclosure of 0.01 to about 50 parts by weight in this section of the specification is only for dispersion stabilizers, vacuum retrieval additives, and organic liquids and not the above mentioned compounds.

11. Applicant's arguments filed regarding Froehlich et al. in view of Chapman et al. and Scalia et al. have been fully considered but they are not persuasive. The applicant argues that the clay compounds are never taught in the instant application as

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brightening agents. The examiner argues that the instant claims require the use of clays and that clays are taught by Chapman. Whether the clays function as brightening agents or as dispersion stabilizer is simply intended use and was given little patentable weight. The compositions include all the instantly claimed components and the components would inherently encompass both dispersion stabilization and brightening properties.

Regarding applicant's arguments about the inequivalence of powdered and liquid carpet cleaning compositions, the examiner argues that the powdered compositions comprise similar components at similarly claimed percentages to the applicants instantly claimed liquid compositions and it well documented in the art to apply carpet cleaning compositions of liquid or powdered composition for the efficient removal of dirt and soils from carpet as evidenced by Scalia's disclosure that granular and liquid compositions are both utilized in carpet cleaning and these compositions are often diluted with water (column 8, lines 20-30).

The examiner further argues that Froehlich et al. teach methods of cleaning carpets where compositions comprising about 30-90% particulate polymeric urea-formaldehyde, wherein the teaching of about 30% would read on applicants 25 parts and the teaching of "As the word 'about' permits some tolerance, see *In re Ayers*, 69 USPQ 109, and *In re Erickson*, 145 USPQ 207), the '25 parts by weight of at least one absorbent particulate' of the instant claims is considered to read on about 30% particulate polymeric urea-formaldehyde of the prior art.

Regarding the 75 parts water, the 70% water taught by Froehlich is expected to provide similar properties. A *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties, see *Titanium MetalsCorp. of America v. Banner*, 778F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). See MPEP 2144.05I. A *prima facie* case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties, see *Titanium MetalsCorp. of America v. Banner*, 778F.2d 775, 227 USPQ 773 (Fed. Cir. 1985). See MPEP 2144.05I.

### **Conclusion**

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

- 13.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796

/Amina Khan/  
Examiner, Art Unit 1796  
April 30, 2008

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